

“SEVERAL WORK AND STORAGE AREAS:” WHY DOJ LIKELY DOESN’T TRUST BIDEN’S PERSONAL ATTORNEYS

Charlie Savage has a story that – while he doesn’t say it – likely explains why DOJ doesn’t entirely trust Biden’s attorneys on the classified documents and so appointed a Special Counsel.

The currently operative story, as told by Savage, is the following:

- Biden’s lawyers found the Penn Biden documents and interviewed the people who packed the documents
- Based on those interviews, they told DOJ other documents would only be at Penn Biden
- Without telling DOJ (though after they learned that DOJ had started to investigate), “and not because of any new information,” they decided to check that premise by looking at the boxes in Biden’s garage
- On December 20, they told DOJ about the documents marked classified in the garage
- They then decided to search other office areas, this

time telling DOJ they were doing so

- When, on January 11, they found a page with classification marks inside one of those office areas, they stopped their searches; FBI would find 5 more pages when they came to secure that single page

But look at this timeline with other dates added:

- Biden's lawyers found the Penn Biden documents and interviewed the people who packed the documents
- November 4: NARA told DOJ about the classified documents
- November 9: FBI started its assessment
- November 14: Garland appointed John Lausch
- Based on Biden's lawyers' interviews of those who packed Biden's boxes, they told DOJ other documents would only be at Penn Biden
- Lausch interviewed some of the people who packed the boxes
- Without telling DOJ, "and not because of any new information," Biden's lawyers decided to check that premise by looking at

the boxes in the garage

- On December 20, they told DOJ about the documents marked classified in the garage
- On January 5, Lausch recommended Garland appoint a Special Counsel
- At some point not IDed in Savage's story, Biden's lawyers decided to search other office areas, this time telling DOJ they were doing so
- On January 11, they told DOJ about another classified page, possibly inside an office, then stopped their searches
- On January 21, FBI did a thorough search of Biden's Wilmington home and found 6 additional documents

Biden's lawyers probably didn't decide to do further searches until after Lausch started interviewing people. Already, if I were DOJ, I would want to know whether Biden consulted with the people being interviewed, and based on that, realized they needed to do further searches.

But we still don't know two other things. Savage describes the second space in Biden's home, which heretofore had been described as the room adjacent to the garage, as "several work and storage areas inside the living area of the house." Which is to say, we *still* don't know whether the January 11 document was found inside a storage space or an office, where documents would be used rather than just stored. Or rather, John Lausch knows that, Savage's sources

know that, but we don't.

We also don't know if Biden found out that Garland was going to appoint a full Special Counsel and only then decided to search the interior of the home.

Something led Biden's lawyers to take more seriously the possibility that documents weren't just stored at Biden's home, but used there. And while this all still *could* be lawyers stepping on their own toes as they try to be helpful, even just based on what we know, from DOJ's perspective, that toe-stepping would be indistinguishable from Biden's lawyers responding to learning things they should have been told from the start, which is different from – but not that different from – Trump moving boxes to prevent Evan Corcoran from finding classified documents.

One more detail that is actually fairly damning. Savage describes that the documents at Penn Biden were copies; the originals are stored at the Archives.

One set was believed to be material that might be useful to Mr. Biden for his post-vice-presidential career in public life or teaching, like his speeches and unclassified policy memos about topics he was interested in. Those materials were initially shipped to two transition offices and then on to his office at the Penn Biden Center when it opened in 2018. (The National Archives and Records Administration would keep original copies of the official records.)

If Biden's office sent originals of the classified documents found at Penn Biden to NARA, it makes their inclusion in documents sent to the policy office far less attributable to a mistake.

Biden's lawyers have been feeding the press a story about how cooperative they've been. But so did Trump's lawyers. Trump's story was far more

obviously bullshit – in part for the way they spun a claim that by adding a lock to Trump’s storage room, they had made it secure.

Though this line about the Biden search – offered up as proof of extreme cooperation – gets close to lock-on-door levels of spinning.

[T]he Biden legal team invited the F.B.I. to also search every room in the residence – including bathrooms, bedrooms and the utility room, the people said.

There are still key parts of Biden’s story that aren’t being explained, most importantly whether the documents discovered this month inside Biden’s house were discovered in storage or in an actively-used office. If DOJ knows that the difference between the two would be critical information for the public to know, then this story would only further degrade confidence in Biden’s lawyer on the part of DOJ.

This is not about the reliability of lawyers like Bauer. Rather, it’s about whether Biden’s lawyers got information at the start they needed. But if they did not, it means that DOJ can’t just trust, but must verify, everything Biden’s lawyers tell them.